

**KIRKWOOD CITY COUNCIL
KIRKWOOD CITY HALL**

June 1, 2006

7:30 p.m.

Pursuant to notice of meeting duly given by the Mayor, the City Council convened on Thursday, June 1, 2006 at 7:00 p.m. at Kirkwood City Hall, 139 South Kirkwood Road, Kirkwood, Missouri. Present were Council Members Godi, Griffin, Lynch, McDonnell, Yuan and Mayor Swoboda. Also in attendance were CAO Mike Brown, and City Attorney John Hessel. Council Member Karr was absent and excused.

MAYOR SWOBODA STATEMENT

Mayor Swoboda read the following statement into the record:

Over the past several years, Cookie Thornton has attempted to make a mockery of these Council meetings. He has shamelessly attacked members of the City staff. He has attacked members of the City Council. He has filed frivolous lawsuits in the Circuit Court, the Federal Court, the Court of Appeals, and the Supreme Court. On each and every occasion, the Courts have ruled against Cookie Thornton. Unfortunately, Mr. Thornton believes that his best course of action is to appear at these council meetings for the purpose of disrupting the Council meetings and for the purpose of insulting members of the City staff and the City Council.

His antics culminated in on of the most embarrassing situations that I have experienced in my many years of public service. Because of his disruptive behavior the Kirkwood Police Department had to forcibly remove him from the Council chambers. The City Council seriously considered banning Mr. Thornton from these proceedings because of his disruptive behavior. We ultimately determined that despite his disruptive behavior, banning him from the Council meetings would be inappropriate.

The City Council also considered banning him from speaking at the Council meetings, but we also thought that this was too drastic a measure at this time. The City Council has decided that they will not lower themselves to Mr. Thornton's level. We will act with integrity and continue to deal with him at these Council proceedings. However, we will not allow Mr. Thornton, or any other person, to disrupt these proceedings.

The City Council has reaffirmed the guidelines that we established for citizen comments and for public hearings. We ask all Citizens to conduct themselves with proper decorum in accordance with these guidelines. The City Council also unanimously endorsed my enforcement of these guidelines, and I will not hesitate to remove Mr. Thornton or any other person who abuses the privileges that are afforded to them.

Lastly, the City Council has authorized me to prohibit someone from speaking on a subject that has been repeatedly presented to us time and again. Therefore, if any citizen has previously presented or made comments at prior Council meetings on a subject that is not presently pending before the City Council on at least ten occasions cumulatively, then I have the right to stop that

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EXHIBIT

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speaker from making the same comments to the City Council again. We ask all of our citizens to conform to the guidelines.

PUBLIC HEARINGS

Mayor Swoboda recessed the meeting for the purpose of conducting a public hearing regarding the allocation of \$46,864 in Community Development Block Grant Funds. Mr. Hessel entered the following exhibits into the record: An Affidavit of Publication in the St. Louis Countian on May 20, 2006 as Exhibit 1, the Notice of Publication to the Webster-Kirkwood Times as Exhibit 2, a memo from Assistant Chief Administrative Officer Georgia Ragland dated May 25, 2006 regarding Community Development Block Grant Funds as Exhibit 3, and the Kirkwood Code of Ordinances as Exhibit 4.

Georgia Ragland presented the matter to the council. St. Louis County is entitled to receive Community Development Block Grant funds from the Department of Housing and Urban Development. Municipalities within St. Louis County are allowed to receive and utilize block grant funds for eligible activities. To participate in the program the City is required to submit an application for funds to the county's office of community development. The City is required to provide 10 days public notice of the public hearing and hold the hearing in accordance with HUD and county guidelines. The guidelines include asking those that attend the public hearing to sign in and make available a public hearing handout. Both of these conditions have been satisfied.

The handout explains that eligible activities must meet one of the following criteria: primarily benefit low and moderate income residents; eliminate slums and blight; alleviate urgent, serious, and critical community needs that are of recent origin. The public hearing is being held to present information on the allocation of \$46,864 for calendar year 2007. This year in 2006 there is scheduled \$2,000 for home maintenance training for Meacham Park homeowners, \$4,000 for recreation fees for Kirkwood -Webster Groves Boys and Girls Club (which will be spent at the end of 2006 for the 2007 softball season), \$12,000 for an audible traffic signal in downtown Kirkwood, and \$28,864 for rehabilitation of homes for low and moderate income residents through the county's Home Improvement program.

Staff is recommending that the 2007 allocation go to home improvements for low to moderate-income residents. Home improvement needs that were funded through the TIF program can now be paid for through the county's Home Improvement program. With the city's revenue problems and resulting shrinking of its work force, the city no longer has people who are experienced and knowledgeable in administering CDBG programs. The county has full time staff that specialize in CDBG programs and does administer through the Home Improvement program most St. Louis County municipal CDBG allocations.

Council Member Griffin asked if staff is recommending no funds for the Kirkwood-Webster Groves Boys and Girls Club softball and how much staff time would be involved to administer this portion of the program. Ms. Ragland responded that staff is recommending that the funds for 2007 be allocated for the county's home improvement program. She stated that

there is a three-inch binder of information regarding administering the Webster Groves Boys and Girls Club softball.

Council Member Lynch asked how many years of allocations have been made for the Webster Groves Boys and Girls Club. Ms. Ragland said she believes it is three years.

There were no comments from the audience.

This item is on the Consent Agenda as Resolution 47-2006.

PUBLIC COMMENTS

1. Tony Masi, lung physician, 24 Ponca Trail, supports the passage of Bill 9715 regarding smoking prohibitions.
2. David Miller, St. Peters, supports the passage of Bill 9715 regarding smoking prohibitions and stated that he will not go to a restaurant that is not smoke-free.
3. Don Young, St. Charles, supports the passage of Bill 9715 regarding smoking prohibitions and that he is a former smoker that smoked for 34 years.
4. Franklin McCallie, 705 West Essex, former principal of Kirkwood High School, supports the passage of Bill 9715 regarding smoking prohibitions.
5. David McArthur, McArthur's Bakery, 113 North Kirkwood Road, Chair of the SBD Advisory Commission, does not support the passage of Bill 9715 and believes it should be left to the customer whether or not they choose to dine in a restaurant.
6. David Kuneman, 1015 O'Day Court, smokers club, disputes claims of damage of second-hand smoke and does not support the passage of Bill 9715.
7. Steve Harris, Charmwood Drive, Ice N Fuel, stated that customers will go elsewhere if smoking is prohibited. Does not support the passage of Bill 9715.
8. Mike Duffy, Glendale, Mike Duffy's Restaurant, represents a group of restaurant owners in Kirkwood each of which does not support the passage of Bill 9715.
9. Jim Wright, Executive Director, Kirkwood Area Chamber of Commerce, stated that the Chamber does not support the passage of Bill 9715 and that it should be a Countywide or Statewide issue.
10. Bill Hannegin, Keep St. Louis Free, does not support the passage of Bill 9715.
11. Gwynn Wahlman, 1002 West Adams, does not support the passage of Bill 9715 and read a limerick.
12. Dan Graham, 1021 Glenford Court, does not support the passage of Bill 9715.
13. Donna Poe, Executive Director, Kirkwood Special Business District, the advisory commission supports the direction of the City Council and they believe the smoking prohibition issue should be considered on a statewide or countywide basis. They do not support the passage of Bill 9715.
14. Pat Bergauer, Executive Vice President, Missouri Restaurant Association, 1810 Craig Road, stated the members do not support passage of Bill 9715.
15. Devin Graham, 100 South Kirkwood Road, Loft 217, does not support the passage of Bill 9715.
16. Cecil Jones, 330 Alsobrook, requested that the City continue the support of the Webster-Kirkwood Girls and Boys Club with Community Development Block Grant Funds.

17. Charles Howard, does not support the use of TIF funds for handicap accessible parking, etc. Would prefer an irrigation system.
18. Franklin McCallie, 705 West Essex, was advised that \$19,000 in TIF funds are left and the committee of which he is a member, felt \$6,000 for the handicap accessible parking should not come out of the \$19,000
19. Harriet Patton, President, Meacham Park Neighborhood Improvement Association, referred to a letter she had written the council requesting that TIF funds be used for a beautification project in Meacham Park.
20. Annie Thornton, 351 Attucks, wants a new roof for her house.
21. Barb Byerly, #2 Taylor Woods Drive, thanked donors for their generosity in donating toward the July 4th fireworks. Carl Lumley and Barb Byerly are very appreciative of the \$40,000 that has been received.
22. Charles Thornton, 351 Attucks, regarding court cases.
23. Milad Abounader, 640 N. Taylor, supports Mr. Thornton.
24. Franklin McCallie, 705 West Essex, strongly disagrees with Mr. Thornton and Mr. Abounader and appreciates the City Council.

CONSENT AGENDA

Motion was made by Council Member Griffin and seconded by Council Member McDonnell to approve the Consent Agenda. Mayor Swoboda requested that item e) Resolution 47-2006 be removed and placed at the end of New Business. The motion to approve the Consent Agenda was unanimously approved as follows:

- a) Approval of the May 18, 2006 City Council Meeting Minutes
- b) Resolution 44-2006, accepting the bid of J.W. Bommarito Construction Company, Inc. for the installation of water main (\$369,086)
- c) Resolution 45-2006, accepting the bid of Stika Concrete Construction for reconstruction of walkways in the City of Kirkwood and authorizing the Mayor to enter into a contract (\$31,171.50)
- d) Resolution 46-2006, authorizing the Mayor to enter into an agreement with the City of Rock Hill for the City of Kirkwood to provide payroll services (+\$3,900)

OLD BUSINESS

Bill 9710, authorizing Missouri American Water Company to install one (1) fire hydrant on Marshall Road at Treecourt Industrial Drive was brought before the council.

Roll Call Vote as Follows:

Council Member Godi	"Yes"
Council Member Griffin	"Yes"
Council Member Karr	Absent
Council Member Lynch	"Yes"
Council Member McDonnell	"Yes"
Mayor Swoboda	"Yes"

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Council Member Yuan

“Yes”

The bill, having received majority approval of the council, was adopted and became Ordinance 9600.

Bill 9712, amending the Special Use Permit granted to St. Agnes Home and approving the site plan for the expansion subject to certain conditions was brought before the council.

Roll Call Vote as Follows:

Council Member Godi	“Yes”
Council Member Griffin	“Yes”
Council Member Karr	Absent
Council Member Lynch	“Yes”
Council Member McDonnell	“Yes”
Mayor Swoboda	“Yes”
Council Member Yuan	“Yes”

The bill, having received majority approval of the council, was adopted and became Ordinance 9601.

Bill 9713, changing the zoning from R-4 to B-3 on property known as 110 and 112 Chester Avenue; 939 and 943 South Taylor Avenue; and 10615, 10619 and 10623 Big Bend Road; and directing such change in the Zoning District Map was brought before the council.

Roll Call Vote as Follows:

Council Member Godi	“Yes”
Council Member Griffin	“Yes”
Council Member Karr	Absent
Council Member Lynch	“Yes”
Council Member McDonnell	“Yes”
Mayor Swoboda	“Yes”
Council Member Yuan	“Yes”

The bill, having received majority approval of the council, was adopted and became Ordinance 9603.

NEW BUSINESS

Bill 9711, appropriating funds in the amount of \$19,807 from TIF Fund (fund balance) to Account 304-1109-600.75.04 was brought before the council. Motion was made by Council Member Lynch and seconded by Council Member McDonnell to accept the bill for first reading approval. The motion was unanimously approved.

The bill received first reading approval and was held over.

Bill 9714, granting a Special Use Permit for a parking lot in a residential district at 1050 North Taylor Avenue and 1047 Curran Avenue and approval of a site plan for the Expansion of Bopp Chapel at 10610 Manchester Road subject to certain conditions was brought before the council. Motion was made by Council Member Lynch and seconded by Council Member McDonnell to accept the bill for first reading approval. Motion was made by Mayor Swoboda and seconded by Council Member Griffin to delete Section 1, Item 5 in its entirety and inserting the following in lieu thereof: "5. A four-foot wide pedestrian walkway shall be installed on the premises as shown on "Sidewalk Exhibit A" dated May 24, 2006. The sidewalk pedestrian path shall be open to the public at all times." The motion to amend was unanimously approved. The motion to accept the bill for first reading approval was unanimously approved.

The amended bill received first reading approval and was held over.

Bill 9715, creating a new Chapter 19½ "Smoking – Prohibited" to prohibit smoking in City-owned facilities, defined public spaces, all enclosed facilities within places of employment, indoor and outdoor athletic fields, pavilions and stadiums, and within twenty-five feet outside an area where smoking is prohibited was brought before the council. Motion was made by Council Member McDonnell and seconded by Council Member Godi to accept the bill for first reading approval. The motion failed unanimously. City Attorney Hessel was directed to prepare ballot language legislation for council consideration at the July 6, 2006 council meeting.

The bill failed.

Bill 9716, revising Section 5-103 "Construction Permit Fees," Article VI, of the Kirkwood Code of Ordinances was brought before the council. Motion was made by Council Member Lynch and seconded by Council Member Griffin to accept the bill for first reading approval. The motion was unanimously approved.

The bill received first reading approval and was held over.

Resolution 43-2006, approving a site plan to expand the parking lot for Doc's Harley Davidson at 944 South Kirkwood Road approved by Ordinance No. 8885 and amended by Ordinance 8980 subject to certain conditions was brought before the council. Motion was made by Council Member Lynch and seconded by Council Member McDonnell to accept the resolution as read.

Roll Call Vote as Follows:

Council Member Godi	"Yes"
Council Member Griffin	"Yes"
Council Member Karr	Absent
Council Member Lynch	"Yes"
Council Member McDonnell	"Yes"
Mayor Swoboda	"Yes"
Council Member Yuan	"Yes"

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CONSENT AGENDA ITEMS FOR DISCUSSION

Resolution 47-2006, applying for use of Community Development Block Grant Funds in the amount of \$46,864 for the fiscal year 2007. Motion was made by Council Member Lynch and seconded by Council Member McDonnell to accept the resolution as read. The council discussed amending the resolution to include \$4,000 for the Webster Groves Boys and Girls Club softball. After discussion a motion was made by Mayor Swoboda and seconded by Council Member Lynch to continue to the resolution to June 15, 2006. The motion was unanimously approved.

CITY COUNCIL REPORTS

Council Member McDonnell reported that the entire Chautauqua event would be dedicated to the memory of Jill Raiser, former President of the Library Board. The tent-raising event will take place on June 5th.

CHIEF ADMINISTRATIVE OFFICER REPORTS


Mr. Brown reported that the City has received a request from 24 Hour Fitness to block off 20 parking spaces and part of the sidewalk at 10320 Manchester Road (Greentree Shopping Center) for their Grand Opening. The event will take place on June 10, 2006 from 10 a.m. to 8 p.m. The management company, Novus, has submitted a revised plan and has approved the request. Motion was made by Council Member Godi and seconded by Council Member McDonnell to approve the request. The motion was unanimously approved.

CITY ATTORNEY REPORT

Mr. Hessel had nothing to report.

ADJOURNMENT

There being no further business to come before the Council, the meeting was adjourned at 9:01 p.m. The next regular council meeting was scheduled for June 15, 2006 at 7:00 p.m.


Betty Montano, CMC/MRCC
City Clerk

Approved: June 15, 2006